

# IOWA DEPARTMENT OF NATURAL RESOURCES

## ADMINISTRATIVE CONSENT ORDER

<b>IN THE MATTER OF:</b>  <b>City of Mapleton</b> Wastewater facility No. 06-727-001  <b>Monona County, Iowa</b>	<b>ADMINISTRATIVE CONSENT ORDER NO. 2014-WW-09</b>
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**TO: Honorable Mayor Roger Krohn**  
**City of Mapleton**  
**513 Main Street**  
**Mapleton, IA 51034**

### I. SUMMARY

This administrative consent order (order) is entered into between the City of Mapleton (City) and the Iowa Department of Natural Resources (Department) for the purpose of resolving the City's violations of the terms and conditions of its wastewater National Pollution Discharge Elimination System Permit (NPDES permit) and applicable Department rules including general water quality standards. The order assesses an administrative penalty, requires the City to comply with its NPDES permit and cease all illegal discharges to waters of the state. In the interest of avoiding litigation, the parties have entered into this order and agree to the provisions set forth below.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Keith Wilken, Environmental Specialist  
IDNR Field Office #4  
1401 Sunnyside Lane  
Atlantic, IA 50022  
Ph: (712)243-1934

**Relating to legal requirements:**

Carrie Schoenebaum, Attorney  
Iowa Department of Natural Resources  
Wallace State Office Bldg. 502 E. 9<sup>th</sup>  
Street  
Des Moines, Iowa 50319-0034  
Ph: (515)281-0824

**Payment of penalty to:**

Iowa Department of Natural Resources  
Henry A. Wallace Building

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Des Moines, Iowa 50319-0034

**II. JURISDICTION**

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. The City operates a wastewater treatment facility pursuant to NPDES permit No. 06-727-001. This permit was issued to the City on December 10, 2002, it expired on December 9, 2007. The City utilizes a gravity flow collection system with one lift station located at the head of the wastewater plant. Wastewater treatment consists of a package type activated sludge plant. Wastewater flows through a bar screen prior to treatment. Following treatment, wastewater flows into a polishing pond. Final effluent is discharged from the polishing pond to the Maple River during the first and third weeks of each month.

Sludge is drawn off the clarification unit and directed to an aeration tank. Sludge drawn off the bottom of the second aeration tank is wasted to the aerated digester. Supernatant decanted from the digester is recirculated back through the reaeration tank. A bypass overflow structure is located at the head of the plant and is identified in the City's NPDES permit as Outfall #002. This bypass overflow structure can direct raw wastewater from the lift station into the polishing pond. The plant has a designed flow capacity of 0.100 mgd (average dry weather) and 0.300 mgd (average wet weather) and 0.450 mgd (maximum wet weather). The plant was designed to treat a maximum of 200lbs/day of carbonaceous biochemical oxygen demand five-day (CBOD<sub>5</sub>).

In 2008 an ultra violet (UV) disinfection system was installed. The City plans to use this system once it receives its new NPDES permit.

2. On November 3, 2004, the Department conducted a NPDES permit compliance inspection. Following this inspection, on December 3, 2004, the Department sent the City a copy of the most recent inspection report and a Notice of Violation (NOV) citing effluent limit violations. During the November inspection the Department took grab samples of the City's effluent. These samples were sent to the University of Iowa Hygienic Laboratory for analysis and

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revealed violations of the total suspended solids (TSS) limit contained in its NPDES permit.

3. On February 15, 2006, the Department sent the City a NOV for exceeding the TSS effluent limit in October, November and December of 2005. These violations were self-reported by the City in its Monthly Operation Reports (MORs).
4. On August 15, 2006, the Department sent a NOV to the City for exceeding its effluent limits for ammonia nitrogen (NH<sub>3</sub>N) and TSS during the months of May and June 2006. These violations were reported by the City in its MORs.
5. On November 29, 2006, a NOV was sent to the City for violations of its NH<sub>3</sub>N and TSS effluent limits during the third quarter of 2006. These violations were reported by the City in its MORs. This NOV asked that a progress report be submitted to the Department by December 15, 2006, detailing the improvements to the City's wastewater treatment facility.
6. On behalf the City, DeWild Grant Reckert and Associates Company (DGR) responded, via letter, to the above NOV. This response discussed the cause of the violations and what had been done to abate further violations. DGR stated that "the package plant was taken off-line in mid-August. The NH<sub>3</sub>N violations were attributed to the mechanical problems and poor performance of the plant before it was taken off line. Supplemental treatment in the form of chemical addition and the operation of four floating aerators on the polishing pond had occurred since mid-August. DGR believes that the TSS violations are related to algae in the polishing pond. The rehabilitated package plant had been placed back into operations.
7. On March 13, 2007, a NOV was sent to the City for violations of TSS and CBOD<sub>5</sub> effluent limits during the fourth quarter of 2006.
8. On May 10, 2007, a NOV was sent to the City for violations of the NH<sub>3</sub>N parameters during January 2007.
9. On August 3, 2007, the Department sent the City a NOV for exceeding its TSS effluent limits during the month of May 2007.

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10. On August 1, 2008, the Department sent the City a NOV for exceeding the TSS limits contained in its NPDES permit during the month of May 2008.

11. On November 5, 2008, the Department sent the City a NOV for exceeding its NH<sub>3</sub>N parameters during August 2008.

12. On August 19, 2009, the Department sent the City a NOV for exceeding the TSS limits contained in its NPDES permit during the month of April 2009 and exceeding its NH<sub>3</sub>N limit during the month of June 2009.

13. On November 9, 2009, the Department sent the City a NOV for exceeding the TSS limit contained in its permit during the months of July and September 2009 and the NH<sub>3</sub>N limit during the months of July and August 2009.

14. On December 15, 2009, the Department sent an inspection report to the City documenting NPDES permit limit violations from 2007 through September 2009. This report also documented a conversation which took place between the Department and Mr. Hahn, of the City, regarding the permit violations. Mr. Hahn stated that he believed the violations were caused by the polishing pond. He also stated that any TSS violations were likely due to algae buildup in the polishing pond.

15. On August 3, 2010, the Department sent a NOV to the City for exceeding the TSS and NH<sub>3</sub>N limits contained in its permit during the month of June 2010.

16. On November 12, 2010, the Department sent a NOV to the City for exceeding the TSS limit contained in its NPDES permit during the month of September 2010.

17. On April 9, 2011, the City was struck by a tornado which significantly damaged the wastewater treatment facility. Due to the tornado damage, the facility began bypassing raw wastewater directly into the polishing pond.

18. On May 2, 2011, the Department received a report from DGR detailing the damaged caused by the tornado. The report stated the following: 1) the lab/blower building roof was blown off; 2) the main electrical control panel and the lab equipment was damaged when the roof blew off; 3) air filters and intake

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pipng out of both blowers were damaged; 4) the blowers may have taken in dust or debris through their open intake piping before the plant lost electrical power; 5) the roof debris blew across the top of the package plant tearing off the hand railing and damaging the motor on the clarifier drive mechanism; 6) much of the roof and hand railing sections fell into the package plant tanks damaging one air lift and the surface skimming arm on the center clarifier; 7) there was damage to the conduit and wiring at the lab/blower building on the package plant to the UV structure; 8) a number of UV bulbs stored in the blower room were damaged; 9) there was some damage to the chain link fence surrounding the plant from wind-blown debris; and 10) the ISCO sampler next to the lift station was blown into the fence and damaged.

19. On January 7, 2014, the Department sent a letter of noncompliance along with the December 5, 2013, inspection report to the City. The report included a summary of all the NPDES permit violations from October 2010 through October 2013. The summary included fifty TSS violations, six  $\text{NH}_3\text{N}$  violations and ten  $\text{CBOD}_5$  violations. The inspection report informed the City that because it is in significant noncompliance with the TSS limits its NPDES permit cannot be renewed. The City should submit a facility plan detailing construction of its sewer system and or treatment facility improvements necessary to maintain compliance with the effluent limits in the NPDES permit. The facility plan should include a sludge study report. The Department informed the City that it will incorporate the facility plan into an administrative consent order and into the new NPDES permit.

20. On January 28, 2014, the Department received a letter from DGR in response to the above letter from the Department. This letter provided a schedule for compliance with the TSS limits contained in the current NPDES permit.

21. On April 24, 2014, the Department received a telephone call from Mike Hahn on behalf of the City. Mr. Hahn reported that the wall between the second aeration tank and the digester failed. Therefore, both units are now acting as one. DGR planned to be on-site that morning to develop a plan of action. Mr. Hahn stated that the City is operating the treatment plant the best it can, but in order to make the repairs the plant will be drained and bypassed. Because of this, everything was sent directly to the polishing pond as was done in 2011 following the tornado.

22. On May 15, 2014, the City notified the Department that in preparation for repairs, it began bypassing the treatment plant that day. The City prepared for

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the event and lowered the polishing ponds as much as possible prior to bypassing. The City believed it had approximately 3 weeks of storage in the ponds.

23. On May 27, 2014, the City notified the Department that the contractors did not begin construction on the date planned. Because of this, the City needed an additional few days to complete the repairs to the treatment plant. Also, the polishing ponds had reached capacity thus; the City would begin bypassing the polishing ponds that day. The City received 3 inches of rain on May 26, 2014, which increased the water level in the pond, but also diluted the stream as the bypass occurred.

24. On May 28, 2014, the City notified the Department that it now had storage available in its polishing pond and therefore the bypass to the Maple River has ceased. The contractor is now onsite and working to repair the treatment plant.

#### **IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems. The Commission has done so at 567 IAC chapters 60-64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. The above stated facts show noncompliance with this provision.

2. Iowa Code section 455B.186 and 567 IAC 62.1(1) prohibits the discharge of pollutants into waters of the State, except for adequately treated pollutants discharged pursuant to a permit from the Department. Because the discharges referenced herein were in violation of the City's permit, the foregoing facts establish that these provisions have been violated.

#### **V. ORDER**

THEREFORE, the Department orders and the City agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

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1. By December 1, 2014, the City shall complete sludge removal from the polishing pond and any necessary land application of that sludge;
2. By December 1, 2015, the City shall submit a facility plan to the Department which addresses improvements needed to meet the TSS limits; and
3. The City shall pay a penalty in the amount of \$1,500.00 within 30 days of the date the Director of the Department signs this order.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision. In addition, Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with the assessment of a \$1,500.00 penalty.
2. **Economic Benefit:** Cost avoided and costs delayed are to be considered when assessing economic benefit. The City has delayed the cost of upgrades necessary to achieve compliance with the TSS limits contained in its NPDES permit. In delaying this expense the money was available to be used for other purposes. Thus, it is reasonable to calculate that approximately \$1,000.00 has been saved. Therefore, that amount is assessed for this factor.
3. **Gravity of the Violation:** Failure to meet the effluent limits established in the City's NPDES permit has allowed pollutants to enter the Maple River. This has contributed to the degradation of the river's overall water quality. Degraded water quality harms aquatic life, and prevents the attainment of state water quality goals. The NPDES permit is the backbone of the wastewater regulatory program. Thus, failure to comply with the permit threatens the integrity of the regulatory program. That said, the City was struck by a tornado on April 9, 2011. Specifically its wastewater treatment plant suffered significant damage. As a result of this tornado the City suffered significant damage to its infrastructure. With this in mind, \$500.00 is being assessed for gravity of the violation.
4. **Culpability:** At this time the Department has determined that no amount should be assessed for this factor.

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**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175 and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of the City. By signature to this order, all rights to appeal this order are waived.

**VIII. NONCOMPLIANCE**

Compliance with section V of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

 Dated this 26<sup>TH</sup> day of  
Roger Krohn, Mayor of the City of Mapleton June, 2014.

 Dated this \_\_\_\_\_ day of  
Chuck Gipp, Director Iowa Department of Natural Resources  
Bruce Traftman, for Chuck Gipp 7/11, 2014.

Field Office 4, Carrie Schoenebaum; Keith Wilken, I.B. 2. (d), I.C.1.,